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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,997	12/18/2001	Judy Ruckman	NEX82/D	8763

25871 7590 12/31/2002
SWANSON & BRATSCHUN L.L.C.
1745 SHEA CENTER DRIVE
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EXAMINER

ZITOMER, STEPHANIE W

ART UNIT	PAPER NUMBER
1634	

DATE MAILED: 12/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/024,997	RUCKMAN et al.
	Examiner S. Zitomer	Art Unit 1634
		
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>		
Period for Reply		
<p>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</p>		
<ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 		
Status		
<p>1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>Dec 18, 2001</u></p>		
<p>2a) <input type="checkbox"/> This action is FINAL. 2b) <input checked="" type="checkbox"/> This action is non-final.</p>		
<p>3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11; 453 O.G. 213.</p>		
Disposition of Claims		
<p>4) <input checked="" type="checkbox"/> Claim(s) <u>1-7</u> is/are pending in the application.</p>		
<p>4a) Of the above, claim(s) _____ is/are withdrawn from consideration.</p>		
<p>5) <input checked="" type="checkbox"/> Claim(s) <u>3-5</u> is/are allowed.</p>		
<p>6) <input checked="" type="checkbox"/> Claim(s) <u>1, 2, 6, and 7</u> is/are rejected.</p>		
<p>7) <input type="checkbox"/> Claim(s) _____ is/are objected to.</p>		
<p>8) <input type="checkbox"/> Claims _____ are subject to restriction and/or election requirement.</p>		
Application Papers		
<p>9) <input checked="" type="checkbox"/> The specification is objected to by the Examiner.</p>		
<p>10) <input type="checkbox"/> The drawing(s) filed on _____ is/are a) <input type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner.</p>		
<p style="margin-left: 20px;">Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).</p>		
<p>11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved by the Examiner.</p>		
<p style="margin-left: 20px;">If approved, corrected drawings are required in reply to this Office action.</p>		
<p>12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.</p>		
Priority under 35 U.S.C. §§ 119 and 120		
<p>13) <input type="checkbox"/> Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</p>		
<p>a) <input type="checkbox"/> All b) <input type="checkbox"/> Some* c) <input type="checkbox"/> None of:</p>		
<p>1. <input type="checkbox"/> Certified copies of the priority documents have been received.</p>		
<p>2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.</p>		
<p>3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</p>		
<p>*See the attached detailed Office action for a list of the certified copies not received.</p>		
<p>14) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).</p>		
<p>a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.</p>		
<p>15) <input checked="" type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.</p>		
Attachment(s)		
<p>1) <input type="checkbox"/> Notice of References Cited (PTO-892)</p>		
<p>4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____</p>		
<p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p>		
<p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p>		
<p>3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). <u>1 (att)</u> 6) <input type="checkbox"/> Other: _____</p>		

DETAILED ACTION

Informalities

1. The disclosure is objected to because of the following informalities: In the first paragraph at page 1 of the specification the patent numbers are missing for the first two applications.

Appropriate correction is required.

Rejections under 35 U.S.C. 112, second paragraph: Indefiniteness

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 2, 6 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are incomplete in omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: the recipients of the recited "administering". The specification at page 21 makes reference to "patients" and "individuals" under certain conditions although it is unclear whether human patients and individuals or some other animal is intended.

Allowable claims

3. No prior art has been found which would provide grounds for rejection of any of claims 1-7 under 35 USC 102 or 103(a).

Conclusion

4. **Claims 3-5 are allowed.** Rejected claims 1, 2, 6 and 7 may be placed in condition for allowance by amending the claims to overcome the rejection under 112, second paragraph.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie Zitomer whose telephone number is (703) 308-3985. The examiner can normally be reached on Monday through Friday from 9:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, W. Gary Jones, can be reached on (703) 308-1152. The official fax phone

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number for this Group is (703) 308-4242. The unofficial fax number is (703) 308-8724.

The examiner's Rightfax number is 703-746-3148.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196. For questions and requests relating to formal matters contact LIE Chantae Dessau at 703-605-1237.

S. Zitomer
Stephanie Zitomer, Ph.D.

December 30, 2002

STEPHANIE W. ZITOMER
PRIMARY EXAMINER